



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Reissue Application of:

Gerard Francis Barry
Ganesh Murthy Kishore

Serial No.: 09/612,404

Filed: July 7, 2000

For: GLYPHOSATE TOLERANT PLANTS

Group Art Unit: 1652

Examiner: Manjunath Rao

Atty. Dkt. No.: 11914.0140.NPUS00

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PRELIMINARY REMARKS

I. SURRENDER OF ORIGINAL PATENT

In the Office Action dated March 27, 2002, the Examiner cited 37 C.F.R. § 1.178 and stated that the original patent must be either fully surrendered or a statement as to loss of inaccessibility of the original patent must be received before this reissue application can be allowed.

Accordingly, Applicants surrender the enclosed original patent.

II. LITIGATION OF ORIGINAL PATENT

In the Office Action dated March 27, 2002, the Examiner requested an update of the litigation previously referenced in the Notice of Litigation filed January 11, 2001. Accordingly, applicants note that the original U.S. Patent No. 5,776,760 was the subject of litigation in *Monsanto Co. v. Pioneer Hi-Bred Int'l*, Civil Action No. 99C 1917, in the U.S. District Court for the Eastern District of Missouri.

That litigation was bifurcated into two phases. The first phase addressed a breach of contract allegation relating to a license agreement between Monsanto and Pioneer. The litigation was settled on appeal of the breach of contract phase of the case. That settlement occurred before the second phase addressing the patent infringement and validity issues were reached. Therefore, no specific issues of patent invalidity were raised before settlement.

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The Examiner is invited to contact the undersigned attorney at (713) 787-1686 with any questions or comments relating to this patent application.

Should any other fees be required for any reason in connection with this communication, the Commissioner of Patents is authorized to deduct said fees from Deposit Account No. 01-2508/11914.0140.NPUS00/WAA.

Respectfully submitted,



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